

REMARKS

Claims 1-51 are currently active.

Claims 41, 42, 48 and 51 have been amended to make them more clear and definite. Antecedent support for the amendment to Claim 41 is found in figure 15a. Claim 48 is now a method claim dependant from Claim 29.

The Examiner has placed a restriction requirement on the above-identified patent application. The Examiner has found two different inventions are claimed in the above-identified patent application. Invention I has Claims 1-41 drawn to a system and method of assisting flow of blood by a patient's heart. Invention II has Claims 42-51 drawn to a sub-system such as a pump. Applicants elect Invention I having Claims 1-41 with traverse.

In regard to Claims 42, 44, 45 and 49-51, they are dependent to parent Claim 1 of Invention I, and Claim 48 is dependant to parent Claim 29 of Invention I, and for this reason alone, it is submitted should not be restricted from Invention I. Applicants question the Examiner whether the Examiner intended instead to request applicants make an election regarding species versus genus claims, as they apply to Claim 1 and the dependent claims of Invention II to Claim 1?

In regard to Claim 43, it has the limitations of a blood pump and a controller. A search of Claim 1 having the limitation of a blood pump mechanism and dependent Claim 8 to Claim 1 having the limitation of a controller, of Invention I, will reveal the patentability of Claim 43 without any additional searching in classes or sub-classes beyond that which would be searched for Claims 1 and 8. Similarly, independent claim 46 of Invention II has the limitations of a blood pump and a controller, like Claim 43, and for the reasons Claim 43 should not be subject to restriction, Claim 46 should also not be subject to restriction.

If the Examiner does not agree with applicants' position, or does not require further clarification in regard to an election of species of a genus claim, then once the Examiner places the restriction requirement in final status, applicants will cancel the non-elected claims.

Applicants bring to the Examiner's attention related applications 09/315,618 and 09/400,800 of assignee of the above-identified patent application.

In view of the foregoing amendments and remarks, it is respectfully requested that the outstanding rejections and objections to this application be reconsidered and withdrawn, and Claims 1-51, now in this application be allowed.

Respectfully submitted,

ZAF ZAFIRELIS, ET AL.

By Ansel Schwartz

Ansel M. Schwartz, Esquire

Reg. No. 30,587

One Sterling Plaza

201 N. Craig Street

Suite 304

Pittsburgh, PA 15213

(412) 621-9222

Attorney for Applicants

CERTIFICATE OF MAILING

I hereby certify that the correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

on 10/2/02
Ansel Schwartz

Ansel M. Schwartz
Registration No. 30, 587

10/2/02
Date

Version with markings to show changes made to the claims

41. A system as described in Claim 1 including means for delivering [which delivers] additional fluid into oxygenated blood by injecting a specific fluid into the blood pump mechanism.

42. A system as described in Claim 41 wherein the delivering means includes [including] an infusion system having an IV bag and the additional fluid is injected into the IV bag, and the fluid delivery depends upon the amount of fluid injected and the constant flow rate of the infusion system.

48. A [system] method as described in Claim [1] 29 including the step of implementing the inserting steps and the pumping step that can be implemented in a short time so as be practical for emergent use without open-chest surgery.

51. A system as described in Claim 1 [that can be used] wherein the transseptal cannula and the perfusion cannula are each interchangeable to quickly access or redistribute blood to a certain destination in a patient's body by changing appropriate sizes of the respective cannula [cannulae].